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SUBMISSION TO THE STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

WITH RESPECT TO BILL 20, THE DEVELOPMENT CHARGES ACT, 1989

(SCHOOL LOT LEVIES)

ONTARIO PUBLIC SCHOOL BOARDS' ASSOCIATION

TUESDAY, AUGUST 29, 1989

92-07987/

INTRODUCTION

The Ontario Public School Boards' Association (OPSBA) is pleased to appear before the Standing Committee on Finance and Economic Affairs to discuss Bill 20, the Development Charges Act.

This legislation has significant funding implications for all public school boards, and is viewed differently by our diverse membership. It has caused much debate among boards experiencing significant growth and those striving to simply maintain aging school facilities. Most importantly, however, we are united by the fact that we share common concerns about the adequacy and allocation of funds for school capital projects - to provide both new pupil places due to growth, and to renew existing buildings. We also remain united in our belief that the province as a whole bears the primary responsibility for education capital funding.

Without exception, our member boards are engaged in a common struggle to meet community expectations, implement new programs imposed by this government (reduced class sizes, expansion and addition of kindergarten programs, incorporating child care services), while dealing with ongoing community growth and/or the maintenance of our existing capital stock. There is also the growing awareness that the added burden of financing the extension of funding to separate secondary schools is being achieved at the expense of the public school system. This remains an issue for our membership since the government is on the record stating that this would not take place.

Reaching a common approach on the issue of school lot levies has not been easy given the demographic differences among Ontario's public school boards. Our recommendations express our united concern over the ongoing and growing need for increased capital funding, and our alarm at the change in the government's funding philosophy which is shifting responsibility from the province to the local community. This is not acceptable to Ontario's public school boards, and we are concerned about the long-term implications of the Development Charges Act.

THE CAPITAL NEEDS OF SCHOOL BOARDS

The Association acknowledges the series of increases in the total amounts committed to school capital projects by the provincial government since 1985. Underfunded on capital projects for many years, we appreciate that provincial grants have risen from $74 million to $300 million a year, including a historic first -- a three year advance commitment.

The increased support, however, is not keeping pace with school board needs. In 1986 alone, school boards requested capital projects worth about $600 million. The requests have continued to increase from $1.1 billion in 1987, $1.7 billion in 1988 to $1.9 billion in 1989.

Last year, school boards submitted five year capital expenditure forecasts to the Ministry of Education. The five year total for all school boards was $5.8 billion. The vast majority of this amount is to meet the growth needs.

DROP IN PROVINCIAL GRANT RATE

The 1989 Ontario Budget disclosed a change in provincial policy in terms of school capital. The average rate of provincial support for approved capital projects was reduced from the traditional 75% to 60%. From the point of view of the local share, this means an increase of 60% (from 25% to 40% overall).

This policy change is another unwelcome example of the provincial government offloading its responsibilities on to local revenue sources. We ask this Committee to recommend a reconsideration of this policy.

Recommendation #1:

That the Committee includes in its report that the Treasurer reconsider the policy of reducing provincial support for school capital projects from 75% to 60% on average.

DEVELOPMENT CHARGES - A SHORT OR LONG TERM SOLUTION?

The public school boards in the province recognize that education development charges will lighten the financial burden of the local school ratepayer in high-growth areas. However, we fear that education lot levies are being viewed as a permanent method of capital funding for education. OPSBA believes that the current need for funds from education development charges is valid, but the use of these funds must be viewed as a short-term solution for the present crisis only. Even this stop-gap solution to the ever-increasing need for more pupil spaces will not make up for the backlog of underfunding that has filled school yards with portables across the province.

The Waterloo County Board of Education's response to the Government's Green Paper on Financing Growth-Related Capital Needs speaks for all public school boards:

> "The learner should not be viewed as the cause of a required educational expenditure. The need for facilities is due to the provincial responsibility for education and legislation which requires school attendance. Therefore, the funding of the capital costs of education should be primarily a provincial responsibility and funded from the general revenues of the province."

This Association agrees with the provision of Bill 20 which limits the effective time of a school board by-law imposing an educational development charge to a maximum of five years. An amendment or renewal of the by-law requires a review and public scrutiny with the possibility of an appeal to the Ontario Municipal Board. We support the principle of "sunsetting" these by-laws. The principle should also apply to the statutory provisions for education development charges.

The Waterloo statement highlights the change in provincial philosophy in school finance earlier discussed. In light of these feelings throughout the province, public school boards want the assurance that education development charges will have a five-year limit, at which time Bill 20 must be reviewed and debated in the House before it can be renewed.

Recommendation #2:
That the Development Charges Act, 1989 Page 30, Section 48 be amended to read:

"This Act comes into force on the day it receives a Royal Assent and shall be in force for five years from the date of coming into force."

LOCAL DECISIONS ON THE LEVY

The Ontario Public School Boards' Association applauds the fact that education development charges are to be a local decision made by each of the school boards of the province. It is a welcome example of the provincial government respecting the idea of local autonomy. However, some boards fear that they may be coerced into implementing lot levies. Boards of education want reassurance that if they choose not to implement lot levies, their capital grant allocations will not suffer as a result. Boards also fear that if their coterminous board implements an education development charge, they will be forced to implement a levy in order to maintain a balance in the municipality.

Recommendation #3:

That this Committee include in its report a recommendation that all school boards receive equal consideration of their capital requests, whether or not they choose to implement an education development charge.

POOLING OF EDUCATION DEVELOPMENTAL CHARGES

OPSBA remains fundamentally opposed to any form of pooling, including the pooling of funds collected from education development charges. The concept of a joint account fails to respect the principle of the independent jurisdiction of each school board and its locally-elected trustees. The proposed joint account for coterminous boards poses a number of anomalies. A major discrepancy will occur if

one board implements education development charges, and its coterminous board waits for several months or years before doing the same. Who will be responsible for the funds collected by the original board? A second problem may arise in the situation when two boards have been imposing development charges and one board stops doing so.

Recommendation #4:

That all provisions in Bill 20 providing for the sharing of responsibilities among coterminous school boards for funds collected from education development charges be deleted and replaced with provisions allowing each school board to be independently responsible for the education development charges raised to pay for its own growth-related capital projects.

PARALLEL TREATMENT FOR MUNICIPALITIES AND SCHOOL BOARDS

It is unacceptable that while Bill 20 treats municipalities and school boards as equals in some respects, it is not always consistent in this regard. One such discrepancy arises in Section 29(5) of Bill 20. There is a lack of parallel treatment. Municipalities would not pay an education development charge for their administrative buildings, while school boards could be required to pay municipal development charges on school board administrative facilities.

The Bill is vague in determining exactly which municipal buildings will be exempt from development charges. Will buildings owned by the municipality but not used for governance or administration (i.e. child care centres, municipal housing, etc.) be exempted from the levies? This must be clarified before the Bill leaves this Committee.

Recommendation #5:

"No land, except land owned by and used for the purposes of a school board or municipality is exempt from an education development charge under a by-law passed under subsection (1) by reason only that the property is exempt from taxation under Section 3 of the Assessment Act."

DEFINITION OF EDUCATION CAPITAL COSTS

The definition of capital costs for the purpose of education development charges is unduly narrow. It would apply to school sites, school buildings and related studies. School boards must also provide furniture, equipment, a core of books for school libraries, school buses and related administrative facilities in order to meet the needs of growing communities. The existing Capital Grant Plan of the Ministry of Education makes provision for furniture, equipment and school buses. In terms of costs eligible to be financed by development charges, we seek the same consideration in every respect as this Committee provides for municipalities.

Recommendation #6:
That Page 19, Section 28, the definition of "education capital costs" be amended and expanded as follows:

(a) to acquire, construct or improve land, buildings, fixtures, machinery, furniture and equipment;
(b) to undertake studies in connection with any of the matters in clause (a), required for the provisions of services, including interest on borrowing for that part of expenditures made under clause (a) that is growth-related, but does not include costs incurred or proposed to be incurred to acquire supplies, inventory or similar items;
(c) to acquire core library stock (defined as 50% of the standard items per student to be accommodated).

COLLECTION OF DEVELOPMENT CHARGES

Since the school boards of the province will not be responsible for the collection of education development charges, OPSBA does not believe that school boards should be responsible for collection of what we might term bad debts. This does not suggest that the municipalities should carry the financial burden. The provisions in Section 38 that any unpaid education development charges shall be added to the tax roll and collected as taxes seems to be sufficient protection. The added protection in Section 37 providing that a school board may register or deposit a lien on the land subject to an education development charge may be both unnecessary and potentially a new kind of administrative burden for school boards.

Recommendation #7:
That this Committee satisfy itself that Page 27, Section 37 is necessary.

DECLARED VALUE OF BUILDING PERMIT

There is a technical difficulty with the wording of a section concerning the way in which the amount of an education development charge on a commercial development is applied. The present wording says, in part, that the charge is the amount obtained by applying the prescribed per cent "...to the declared value of the building permit...". This could be interpreted to mean that the charge applies only to the fee for the building permit and not to the value of the development project.

Recommendation #8:
That on Page 25, Section 34(2{a}) be amended to read as follows:
"the amount obtained by applying the prescribed per cent determined by a board that is within a prescribed range of per cents, to the declared value of the building."

SUMMARY OF RECOMMENDATIONS

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ACKNOWLEDGEMENTS

The Ontario Public School Boards' Association acknowledges the work of the Capital Issues Sub-committee of the Policy Committee of its Board of Directors. The members of the Sub-committee are as follows:

Sharon Campbell, trustee, Prince Edward County Board of Education
Chair of OPSBA Capital Issues Sub-committee

John Castle, trustee, Brant County Board of Education

George Klosler, trustee, Oxford County Board of Education

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Special Thanks
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